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Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

BATTLE MOUNTAIN BAND OF THE TE-MOAK TRIBE OF WESTERN SHOSHONE INDIANS,

Plaintiff,

v.

UNITED STATES BUREAU OF LAND MANAGEMENT and JILL C. SILVEY, in official capacity as Bureau of Land Management Elko District Manager,

Defendant.
_______________________________________/

Case No. 3:16-cv-0268-LRH-WGC

MOTION TO DISMISS COUNTERCLAIMS

COMES NOW, Plaintiff, the Battle Mountain Band of the Te-Moak Tribe of Western Shoshone Indians, (hereinafter the "Band"), and hereby requests the Court dismiss Carlin Resources, LLC's (hereinafter "Carlin") counterclaims under Federal Rule of Civil Procedure 12 because this Court lacks jurisdiction over the counterclaims based upon tribal sovereign immunity from suit, Fed.

R. Civ. Proc. 12(b)(1) and because the counterclaims fail to state a claim upon which relief can be granted and/or fail to state the claim against the proper party. Fed. R. Civ. Proc. 12(b)(6-7).

Respectfully submitted this 15th day of September 2016.

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CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of September, 2016, I electronically filed the foregoing **MOTION TO DISMISS** with the Clerk of the Court and served on all parties of record using the CM/ECF System.

/s/ Ashley Klinglesmith

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